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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Performance Measurements and
Reporting Requirements
for Operations Support Systems,
Interconnection, and Operator Services
and Directory Assistance

CC Docket No. 98-56
RM-9101

COMMENTS OF SPRINT CORPORATION

SPRINT CORPORATION

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Sprint Corporation hereby submits its comments in response to the above-captioned Notice of Proposed Rulemaking (FCC 98-72, Released April 17, 1998).

I. INTRODUCTION AND SUMMARY

In the Notice, the Commission addressed the all-important subject of access by competitive local exchange carriers (CLECs) to the operations support systems (OSS) of incumbent local exchange carriers (ILECs), and in particular, the need to ensure that ILECs provide CLECs with access to OSS that is nondiscriminatory as between CLECs and is in parity with the OSS access that the ILEC gives to itself with respect to its own customers or its own affiliates. To this end, the Commission proposes to adopt model performance measures – that include the categories of OSS functions to be measured and the methodology for computing performance – and model reporting requirements that would place this information in the hands of CLECs. The Commission proposes, in the first instance, to leave it to the states to decide whether to promulgate rules based on these model performance measures and reporting requirements (or alternatively to utilize these models in arbitrating disputes between CLECs and

ILECs), but leaves open the possibility that in the future the Commission might consider promulgating its models as rules.

Sprint is interested in this proceeding both as a CLEC and as an ILEC. Sprint's long distance division is certificated to provide service as a CLEC in 44 states and the District of Columbia and desires to enter the local market throughout the nation as soon as it makes business sense to do so. However, a major stumbling block to date has been the lack of access to ILEC OSS on a basis that will enable Sprint, either as a reseller of ILEC service or a purchaser of unbundled network elements, to offer competing services on a high-quality basis. Thus, as a nascent CLEC, Sprint recognizes the critical importance of having standards in place to ensure that ILECs give Sprint (and other CLECs) parity of treatment and non-discriminatory treatment vis-à-vis other CLECs. At the same time, Sprint has extensive ILEC operations, serving more than 7 million access lines in 18 states. As an ILEC, Sprint is fully aware of its obligations under the 1996 Act to provide parity and non-discriminatory treatment to CLECs that wish to compete in Sprint's ILEC regions. In short, mandated OSS measurements and reporting requirements will benefit Sprint's CLEC operations and at the same time will be a burden on the Sprint ILECs.

Thus, in weighing these issues from a corporate perspective, Sprint has every interest in ensuring that Commission actions do not result in burdens on ILECs that have no sound business purpose for CLECs, nor is Sprint interested in imposing on ILECs requirements that are difficult and costly to implement. Sprint urges the Commission to bear in mind that the requirements supported in these comments are, in Sprint's view, both important for local competition and reasonably implementable by the ILEC industry.

Sprint is gratified that the proposed performance measures and reporting requirements draw heavily from the proposals of the Local Competition Users Group (LCUG), a group of five

CLECs of which Sprint is a member. While the Commission did not adopt every performance measure that the LCUG group had proposed, Sprint believes that the Commission's proposals are sound and, with very minor modifications, should be capable of prompt and inexpensive implementation by the ILEC industry. On the other hand, Sprint believes that the Commission's tentative decision to refrain from prescribing its proposals as rules is a mistake for both ILECs and CLECs and will retard the development of local competition. Thus, Sprint urges the Commission to adopt standards and reporting requirements, consistent with the views expressed below, as binding rules.

II. THE PROPOSED MEASUREMENT STANDARDS AND REPORTING REQUIREMENTS SHOULD BE PROMULGATED AS RULES, NOT MODELS.

Sprint cannot stress enough the importance of binding Commission rules for OSS measurements and reporting requirements. The Commission's tentative decision merely to adopt (at least initially) "models" for the states to follow or modify as they see fit would inevitably delay the implementation of the measurements and reports, and could lead to greater costs and burdens on ILECs and CLECs.

Even if every state commission wanted to adopt the Commission's model in total, it could take several additional months for each state to commence and conclude the necessary proceedings to do so. And until the states act, ILECs are unlikely to begin devoting the time and resources necessary to implement the performance measures until they know for sure whether the states will in fact adopt the models without change. Thus, relying on state action in the best of circumstances — the assumption that all states ultimately would adopt the Commission's "model" program — would simply mean a substantial delay in the implementation of the Commission's model.

If, on the other hand, one or more states chose not to adopt the Commission's plan, or to modify it in material respects, additional burdens would be placed on CLECs and ILECs alike. Many ILECs centralize many of the OSS functions. For example, if a customer order center that handles six states must track and report its activities on a different basis for each of those states, the implementation and ongoing burdens of maintaining six different sets of performance measurement and reporting standards will inevitably increase costs and reduce efficiency. Ultimately, these costs must be borne, in one form or another, by consumers.

From the CLEC perspective, it is also difficult for CLECs serving a number of states to have to review ILEC performance on different bases in each state. Without uniformity, it will be more difficult for CLECs to adopt standardized procedures for reviewing and monitoring the performance reports they receive. The Commission and state regulators also may have an interest in comparing a particular ILEC's performance from one state to the next. For example, the Commission has found that in reviewing an RBOC §271 application for one state, it is highly relevant to look at that carrier's OSS provisioning not only in that state, but also in the other states it serves¹. If performance measurements vary from one state to the next, it will be difficult, if not impossible, to make "apples-to-apples" comparisons.

The possibility that some states may choose not to adopt any rules at all, but rather impose performance measurement and reporting requirements on a case-by-case basis through the arbitration process can lead to even more chaotic results. It is conceivable that each ILEC would have to maintain different measurement standards and different reporting requirements for each individual CLEC it serves. This would negate the whole purpose of the reporting requirements and it would also compound the cost burdens placed on the ILEC from having to

¹ See BellSouth South Carolina Order, 13 FCC Rcd 539, 595 (1997).

create and maintain multiple measurement and reporting systems in even a single state.

Adopting nationwide rules on measurements and reporting requirements would not usurp the states from performing functions within their legitimate jurisdiction. It would still be up to the states to determine (if they choose to do so) appropriate performance benchmarks, or quality of service standards, for each of the categories to be measured. Such quality of service standards have traditionally been the province of the states and one which, in Sprint's view, can continue to be left to the states. However, giving the states a uniform set of measurement standards and reporting requirements would facilitate the states' tasks in setting such standards by giving them a common skeleton on which to build the substantive performance benchmarks which they choose to adopt.

The logic – and indeed the necessity – of adopting binding rules instead of non-binding models is overwhelming. However, in the event the Commission chooses not to take this step at this time, it should at the very least make clear its intention to utilize its models in reviewing §271 applications. Not only is such a policy necessary if the Commission is to be able to analyze the RBOCs' conduct region-wide (as it has found it must), but would also provide the RBOCs an incentive to cooperate in (rather than resist) state efforts to adopt the models.

III. PROPOSED MEASUREMENTS AND REPORTING REQUIREMENTS.

A. General Issues.

With minor modifications, Sprint supports the measurement categories – the activities to be measured – and the measurement methodologies proposed in the Notice. Sprint agrees that the Commission should balance the desirable goal of detecting possible instances of discrimination with a goal of minimizing the burden imposed on ILECs (Notice, ¶36). As a general matter, Sprint believes that the types of activities to be measured, as reflected in the

Commission's proposals, represent valid business issues which are of legitimate concern to CLECs and would justify the burdens imposed on ILEC of measuring and reporting on these activities. To the extent that Sprint disagrees with a few of the details of the Commission's proposals, as will be discussed below, it believes that its own proposals, if adopted, would facilitate prompt implementation of the Commission's proposals at minimal cost to the ILECs. With the modifications proposed herein the Sprint ILECs would be ready to begin implementation of these measurements and reporting requirements on receipt of a Commission order, except for measurements that presuppose an electronic interface standard that has not yet been agreed upon or implemented.

1. Statistical tests (§34). Sprint agrees with the Commission that reporting averages of performance measurements alone may not suffice in uncovering underlying differences in performance. Thus, Sprint supports the use of statistical techniques for determining whether there are statistically significant differences between the ILEC's performance when provisioning service to its own retail customers and its performance toward competing carriers. Sprint believes that the LCUG method would produce acceptable results but notes that it does not test for differences in variance and that the LCUG methodology has been modified from generally accepted statistical procedures to eliminate the effects of variances in CLEC data from the calculation of the z-score. While Sprint believes that the LCUG method is acceptable, a standard statistical test that measures both differences in means and variances would also be acceptable.

Assuming adequate statistical tests are embodied in the rules, Sprint believes there is no general need to make the underlying data routinely available to CLECs. Instead, such data should be available only in the context of an audit.

2. Geographical level of reporting (§38). Sprint believes that statewide reporting is too broad (unless an ILEC serves only a small portion of a state) to accurately identify areas of potential discrimination in service² and therefore supports reporting on the basis of a smaller geographic unit than an entire state. At the other extreme, reporting on a wire center basis would be burdensome for the ILECs and could overwhelm CLECs with data that they simply do not need. The Sprint ILECs – and Sprint believes other ILECs as well – already keep data in geographic units smaller than a state (e.g., by exchange or by district) and as long as the ILEC uses smaller than statewide reporting units for its own internal business purposes, these units should suffice for purposes for these rules as well. Since the nature of these units may vary from one ILEC to the next, Sprint recommends that the Commission simply require each ILEC to report using the same geographic units the ILECs uses internally with respect to its own retail business, so long as those units are at least as large as an exchange, but smaller than an entire state or LATA.

3. Scope of reporting (§39). Sprint supports the Commission's tentative conclusion that an ILEC should report separately on its performance as provided to: (1) its own retail customers, (2) any of its affiliates that provide local service, (3) competing carriers in the aggregate, and (4) the individual CLEC receiving the report. Sprint urges the Commission to clarify the second category above to include any ILEC affiliate that purchases local service for resale or purchases unbundled network elements from the ILEC. Sprint would also add for clarification that the performance results of the ILEC and ILEC affiliates would be provided to the CLECs as proprietary information that could be used for regulatory purposes but not for commercial purposes (e.g., comparative advertising).

²E.g., in instances where competition exists in only one city in a state, statewide reporting could mask the fact that in that city, the ILEC may be giving far better service to its own customers than to the CLECs, even though its

B. Proposed Measurements.

With respect to the specific categories to be measured and measurement methodology, Sprint fully supports the Commission's proposals except for specific issues raised below. Sprint believes that adoption of these measurements will be an important step in ensuring that unwarranted discrimination in the availability of OSS can be detected, and that these measurements should suffice for the time being. However, the Commission must bear in mind that with real competition in its infancy, it is likely that over time, the need for further measurements may surface, and the Commission should remain open to changing its rules—by expansion or contraction—if competitive circumstances warrant.

1. Ordering and provisioning. Sprint supports the thirteen measurement categories set forth in Appendix A of this Notice. The Sprint ILECs currently do not differentiate and report on dispatch versus non-dispatch orders for the various categories of service, but have the information to do so. However, the Sprint ILECs do not currently track orders involving interim numbering portability (INP) separately from other orders for unbundled loops, and inasmuch as permanent number portability is beginning to be deployed, Sprint does not believe it is important to separately track INP orders.

Due to the fact the Average Completion Interval is driven in many cases by the CLEC requested due date, the Average Completion Interval measurement may not be a meaningful measurement from a parity perspective. Sprint recommends this measure be removed from the requirements. With respect to the proposal to measure the Percentage of Due Dates Missed, the Sprint ILECs currently gather information and report on the percent of due dates met rather than due dates missed and believes that this measure would better reflect the goal of determining parity than the Average Completion Level.

service to the CLECs matches its statewide performance to its own customers.

With respect to the issue (§70) of whether it is appropriate to measure the percentage of trouble reports on a “per order” basis, that measure might mask a higher number of troubles for larger orders that involve multiple circuits. It also might be difficult to relate which line was installed on what order. Sprint therefore recommends that trouble reports be reported on a per circuit basis.

Sprint supports the Commission’s proposals regarding accuracy of 911/E911 database updates. Apparently most states do not have stringent laws governing the implementation and ongoing maintenance of 911 databases. Due to the sensitive nature of the information contained in the 911 automatic location identifier (ALI) record, confidentiality and accuracy are of utmost importance to each service provider. Therefore, federal reporting requirements may be appropriate due to the number of new providers entering the business. In 1996, the National Emergency Number Association (NENA) set forth data quality measurements for any 911 system that provides information for data display (NENA-02-004). These recommended standards define measurements which will support meaningful computations to allow for a better understanding of database quality and the timeliness of database updates. It is recommended that each service provider of 911 data adhere to these industry standards. Some states have laws that will severely punish the provider when these standards are not observed. However, in those states that have no such laws, NENA has no power to enforce the standards. It may be prudent for the Commission to adopt those recommendations in its rules to protect the integrity of the databases.

2. Maintenance and repair. The Commission seeks comment (§ 83-84) on whether, in measuring frequency of troubles and repeat troubles, a 30-day period is an appropriate period.

Sprint believes that the 30-day period embodied in the Commission's proposals is entirely appropriate. It has been the industry standard for many years, and should be adopted herein.

3. Billing measurements. The Commission proposes to disaggregate the reporting of Average Time to Provide Usage Records by (1) end-user usage records; (2) access usage records; and (3) alternately billed usage records. See Notice, Appendix A at 12. Sprint recommends that the measure for alternately billed usage records be eliminated and that only the end-user and access categories be used instead. The volume of such usage records is immaterial and any delays would be reflected in the usage measurement. The cost of separately tracking this activity out weighs any real benefit.

4. Interconnection measurements. The Commission seeks comment on general issues associated with blockage. Specifically, the Commission notes that repeated blockage over the same trunk groups can indicate inferior service and asks whether ILECs should measure repeated blockage for an ongoing period, such as three consecutive months. The Commission also seeks comment on whether ILECs should report on blockage exceeding a certain blocking standard for both interconnection and common trunk group measurements. The Sprint ILECs currently comply with the FCC ARMIS reporting requirements. There are several factors over which the CLEC has direct control and responsibility for the results. For example, the results of this measurement can be impacted by whether or not the CLEC ordered the proper trunk quantity when trunk groups are involved. Also, trunk design standards are contractual issues.

5. Collocation. Sprint would point out that many ILECs have established, by tariff, the timelines for responding to collocation requests. For the ILECs that have done so, it is the tariff timelines that should govern whether or not a date has been missed, i.e., all completions within the tariff timelines should be considered on time.

IV. REPORTING PROCEDURES.

A. Receipt of Reports.

As indicated above, Sprint believes that each CLEC should receive a report showing its own performance relative to that of the ILEC for its own retail customers, for any ILEC affiliates that provide local service, and for CLECs in the aggregate. Since the information about individual CLECs is proprietary and competitively sensitive, no CLEC should receive information about another individual CLEC (other than a CLEC affiliate of the ILEC). ILECs should only submit reports to those CLECs who request them. It may be that particular CLECs do not feel the need to closely monitor OSS performance, and if that is the case, there is no reason to burden either the ILEC in sending a report to the CLEC or the CLEC with paper it does not want to see.

Sprint does not favor a rule that would automatically require the submission of reports either to this Commission or to the states. Rather, both this Commission and the states can reasonably rely on CLECs to call to their attention instances of possible discriminatory treatment. However, as discussed above, states may wish to set substantive performance benchmarks, and if that is the case, the states clearly have an interest in receiving reports on a periodic basis to monitor compliance with those standards. However, that can be handled by state, not federal, rules. The Commission also raises (§111) whether the ILEC measurement results should be protected from disclosure by CLECs to non-requesting CLECs or to the general public. Sprint has no problem in protecting ILEC data from such disclosure. However, the CLEC must have the ability to disclose the data to governmental agencies where such data are relevant to enforcement proceedings or other regulatory proceedings (e.g. applications under section 271 for in-region long distance authority).

B. Frequency of Reports (§ 112).

Sprint favors a monthly reporting requirement for the time being. It may be, once the reporting requirements have been in place for some period of time, and meaningful local competition emerges, that less frequent reporting would meet the needs of the CLECs and other regulatory authorities requesting the reports. However, while local competition is in its early stages, there needs to be an "early warning system" that performance reporting on a less frequent basis would simply fail to provide.

C. Auditing Requirements.

If statistical tests are performed and submitted with each report, it may only be necessary to make the raw data available in conjunction with an audit. The Commission should bear in mind that multiple, simultaneous audits could strain the resources of ILECs and should allow ILECs reasonable latitude in scheduling audits. Each carrier should bear its own costs related to the audit, and if CLECs request special reports, they should expect to bear the reasonable costs of furnishing such reports. Finally, with respect to data retention periods, the Sprint ILECs retain 13 months of such data (the current month plus 12 months of history). Sprint believes that such a retention period is adequate and that the cost associated with the additional storage requirements could be significant, particularly for a period as long as the two-year period suggested in §115.

V. OTHER ISSUES.

Sprint agrees with the Commission's tentative conclusion, in §125, that the Commission should not attempt to set performance standards as benchmarks. As discussed above, this is an area that traditionally has been the province of the states, and Sprint believes that the Commission, in the first instance, should look to the states to establish benchmark quality of

service standards. However, ILECs should be required, consistent with §251, to provide performance to CLECs that is non-discriminatory and in parity with the performance provided by the ILEC to its own end users or affiliates. And, in cases where an applicable state standard is higher than the current ILEC level of performance, it should meet the state performance standards at a minimum.

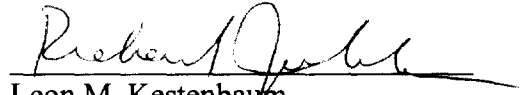
With respect to the technical standards for OSS interfaces, Sprint agrees with the Commission's tentative conclusion to leave the development of these standards to the appropriate industry forum. However, the failure of individual ILECs to implement agreed upon standards has been a serious problem in the past and is likely to continue to be one in the future. The Sprint ILECs have a policy of implementing industry standards on OSS interfaces within 12 months after their adoption, and Sprint believes that this is a reasonable implementation period for other ILECs as well.

Sprint also agrees with the Commission's tentative conclusion, in ¶130, that it is premature to propose model enforcement mechanisms for violation of OSS requirements. It is simply too difficult to determine, in the abstract, and without any historical data, how much of a departure from parity in a particular measurement for a particular period of time represents unlawful conduct. It is quite likely that some deviations from parity will occur that may be transitory aberrations in the performance of a carrier that has otherwise behaved in an exemplary fashion with respect to OSS. At the same time, however, Sprint believes that when conduct emerges that is indicative of discriminatory treatment, sanctions must be both swift and severe. Otherwise, the markets effects of the improper conduct will be a fait accompli and conventional monetary penalties may be far too small in relation to the business advantage to be gained by discriminatory conduct to serve as an effective deterrent. Particularly in the initial stages of

competition, when the concept of local competition is a novel one for consumers, and CLECs are most dependent on ILEC services and facilities, anything that an ILEC can do to degrade the quality of service provided by the newcomer can place an indelible mark against the CLEC in the eye of consumers and could saddle the CLEC with a reputation for poor service that would be difficult to overcome. The need to detect and thwart such conduct in the initial stages of competition is all the more reason why the Commission should place primary emphasis on swift implementation of measurement standards and reporting and to do so through binding rules rather than issuing "model" guidelines that could be implemented by the states, if at all, on a delayed basis.

Respectfully submitted,

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